

Ballard Spahr LLP  
1 East Washington Street  
Suite 2300  
Phoenix, AZ 85004

Jay A. Zweig (011153)  
Melissa R. Costello (020993)  
BALLARD SPAHR LLP  
1 East Washington Street, Suite 2300  
Phoenix, AZ 85004-2555  
Telephone: 602.798.5400  
Facsimile: 602.798.5595  
Email: [zweigj@ballardspahr.com](mailto:zweigj@ballardspahr.com)  
Email: [costellomr@ballardspahr.com](mailto:costellomr@ballardspahr.com)

*Attorneys for Defendant JDM Golf, LLC*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Alyssa E. Nessel, a single woman,

Plaintiff,

vs.

JDM Golf, LLC, an Arizona limited  
liability company; John and Jane Doe,  
husband and wife,

Defendants.

Case No.

**NOTICE OF REMOVAL**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT,  
DISTRICT OF ARIZONA:**

**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant JDM Golf, LLC (“Removing Defendant”), appearing solely for the purpose of filing this Notice of Removal, and reserving all rights, defenses, exceptions, objections and claims and without waiver thereof, hereby removes the action entitled Alyssa E. Nessel v. JDM Golf, LLC, an Arizona limited liability company; John and Jane Doe, husband and wife, Case No. CV2021-014197 (the “State Court Action”), currently pending in the Superior Court of Arizona in Maricopa County, to the United States District Court, District of Arizona. In further support of this Notice of Removal, Removing Defendant states as follows:

1. Plaintiff Alyssa E. Nessel (“Plaintiff”) filed her Original Complaint in the State Court Action on September 9, 2021. On November 10, 2022, Plaintiff filed her First

1 Amended Complaint in the State Court Action. Counsel for Removing Defendant executed  
2 a Waiver of Service, waiving service of a summons and the First Amended Complaint on  
3 December 19, 2022.

4       2. In Plaintiff's First Amended Complaint, she alleges, in part and for purposes  
5 of this Notice of Removal, that Removing Defendant violated Title VII of the Civil Rights  
6 Act of 1964 ("Title VII") by subjecting her to sexual discrimination, sexual harassment  
7 and retaliation. Specifically, Plaintiff claims that her former employer, Removing  
8 Defendant, was put on notice that Plaintiff was subjected to sexual assault and battery by  
9 one of Removing Defendant's golf patrons and failed to take any remedial action.  
10 Additionally, Plaintiff claims that she informed Removing Defendant that she had been  
11 subjected to sexual harassment by a co-worker, and thus a hostile work environment, but  
12 Removing Defendant took no remedial action. Last, Plaintiff claims that Removing  
13 Defendant retaliated against her by terminating her employment for reporting the alleged  
14 sexual assault and battery, sexual harassment and hostile work environment.

15       3. According to Plaintiff, at least one of her claims against Removing  
16 Defendant is based on alleged violations of Title VII. See Plaintiff's First Amended  
17 Complaint, **Exhibit A**.

18       4. Removing Defendant filed its Answer to Plaintiff's First Amended  
19 Complaint on January 13, 2022.

20       5. Federal question jurisdiction exists when an action presents a claim "arising  
21 under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. Any civil  
22 action commenced in state court is removable if it might have been originally brought in  
23 federal court. See 28 U.S.C. § 1441; Exxon Mobil Corp. v. Allapattah Servs., Inc., 545  
24 U.S. 546, 563-64 (2005) (noting that "a district court has original jurisdiction of a civil  
25 action for purposes of § 1441(a) as long as it has original jurisdiction over a subset of  
26 claims constituting the action"). Here, a federal question is presented on the face of the  
27 First Amended Complaint because Plaintiff alleges that Removing Defendant violated Title  
28 VII, which is a federal statute. A United States District Court is the proper forum to hear

1 an action brought pursuant to this federal law. Accordingly, the State Court Action is one  
2 over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and removal  
3 jurisdiction pursuant to 28 U.S.C. § 1441.

4 6. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over  
5 all other claims brought by Plaintiff against Removing Defendant and the other named  
6 defendants in the State Court Action because said claims are so related to Plaintiff's Title  
7 VII claim that they form part of the same case or controversy.

8 7. Removal to this Court is proper pursuant to 28 U.S.C. §§ 1391(b) and  
9 1441(a) because the State Court Action was filed in Maricopa County, Arizona and likely  
10 arises from events that are alleged to have occurred there.

11 8. This Notice of Removal has been filed within the time period prescribed by  
12 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446, true and correct copies of all process,  
13 pleadings and orders served upon Removing Defendant in the State Court Action are  
14 attached hereto as **Exhibit A**. Removing Defendant has not filed any responsive pleadings  
15 in the State Court Action.

16 9. Removing Defendant reserves the right to amend this Notice of Removal,  
17 and submit evidence supporting this Notice of Removal should Plaintiff move to remand.

18 10. Removing Defendant reserves all defenses to Plaintiff's claims.

19 11. A copy of this Notice of Removal will be filed concurrently with the Superior  
20 Court of Arizona in Maricopa County and served on Plaintiff.

21 **ACCORDINGLY**, Removing Defendant removes this action and gives notice to  
22 Plaintiff and to the Superior Court of Arizona in Maricopa County that the State Court  
23 Action shall proceed no further pursuant to 28 U.S.C. § 1446(d).

24 ///

25 ///

26 ///

27 ///

28 ///

1 RESPECTFULLY SUBMITTED this 13th day of January, 2023.

2 BALLARD SPAHR LLP

3  
4 *By: /s/ Jay A. Zweig*  
Jay A. Zweig  
Melissa R. Costello  
5 1 East Washington Street  
Suite 2300  
6 Phoenix, AZ 85004-2555  
7 Attorneys for Defendant JDM Golf, LLC  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Ballard Spahr LLP  
1 East Washington Street  
Suite 2300  
Phoenix, AZ 85004

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of January, 2023, I electronically submitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

I further certify that a copy of the foregoing was sent via e-mail and first class mail this same date to:

**LUBIN & ENOCH, P.C.**

Nicholas J. Enoch, AZ State Bar No. 016473  
Kaitlyn A. Redfield-Ortiz, AZ State Bar No. 030318  
Morgan L. Bigelow, AZ State Bar No. 037506  
349 North Fourth Avenue  
Phoenix, Arizona 85003-1505  
Telephone: (602) 234-0008  
Facsimile: (602) 626-3586  
Email: [nick@lubinandenoch.com](mailto:nick@lubinandenoch.com)  
Attorneys for Plaintiff

By: /s/ Vicki L. Morgan